

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of Application of)	
)	
LAIDLAW TRANSIT, INC.)	File No. 0002640796
)	
for an Industrial/Business Pool Station in Reche)	
Vista, California)	

ORDER

Adopted: February 14, 2007

Released: February 15, 2007

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* We have before us an application and waiver request filed by Laidlaw Transit, Inc. (Laidlaw) for authorization to operate an Industrial/Business Pool Station in the 470-512 MHz band in Reche Vista, California.¹ Laidlaw requests a waiver of Section 90.305(a) of the Commission's Rules² to permit it to operate more than fifty miles from the geographic center of the Los Angeles, California urbanized area. For the reasons set forth below, we deny Laidlaw's request for waiver, and will dismiss the application.

2. *Background.* Pursuant to Section 90.305(a), base stations operating in the 470-512 MHz band must be located within fifty miles of the geographic center of the urbanized areas listed in Section 90.303 of the Commission's Rules.³ On June 6, 2006, Laidlaw filed an application to operate a new Industrial/Business Pool Station at Reche Vista, California, at a location approximately 69.7 miles from the geographic center of the Los Angeles, California urbanized area.⁴ Because the proposed base station would be more than fifty miles from the geographic center of the Los Angeles urbanized area, Laidlaw requests a waiver of Section 90.305(a) of the Commission's Rules.⁵ Laidlaw, which provides school bus transportation for various school systems in and around the greater Los Angeles area, contends that there are no locations within the fifty-mile radius that would provide adequate coverage to the area east of Los Angeles that it seeks to serve with the proposed Reche Vista facility.⁶ It asserts that its proposed operations would not cause interference to any land mobile radio systems.⁷

3. *Discussion.* A request for a rule waiver in the Wireless Telecommunications Services may be granted if it is shown that (a) the underlying purpose of the rule would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (b) in view of unique or unusual factual circumstances of the instant case, application of the rule would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has

¹ FCC File No. 0002640796 (filed June 6, 2006), Request for Waiver, dated May 31, 2006 (Waiver Request).

² 47 C.F.R. § 90.305(a).

³ See 47 C.F.R. §§ 90.303, 90.305(a).

⁴ FCC File No. 0002640796.

⁵ Waiver Request at 1.

⁶ See *id.* at 1-2.

⁷ See *id.* at 2.

no reasonable alternative.⁸ We conclude that Laidlaw has failed to provide a sufficient showing that grant of the requested waiver is warranted.

4. The purpose of the fifty-mile limitation is to protect over-the-air broadcast operations on television (TV) channels 14-20 from harmful interference by land mobile radio systems operating in the 470-512 MHz band.⁹ The rules specify effective radiated power and antenna height limits to ensure that land mobile stations will not interfere with existing full-power television stations.¹⁰ Laidlaw presents no analysis of its proposed station's potential for interference to television reception. Indeed, it does not even contend that the station would not cause such interference. Thus, we conclude that application of the rule in this case would serve, and not frustrate, the rule's underlying purpose.

5. Instead, Laidlaw argues that waiver is warranted under the second prong of the waiver standard, because a waiver would be in the public interest and unique or unusual circumstances give Laidlaw no reasonable alternative. We are unable to agree, however, based on the record before us. For example, Laidlaw does not describe the area it seeks to cover, other than to say that it is "east of Los Angeles."¹¹ Laidlaw therefore does not demonstrate that the targeted area can be served by no means other than the proposed facility. In this regard, we note that the Commission has stated that it is more inclined to consider favorably requests for waiver of Section 90.305(a) when the applicant proposes to contain its area of operations within the eighty-mile area delineated in Section 90.305 (*i.e.*, the fifty-mile limit in Section 90.305(a) combined with the thirty-mile limit on mobile operations in Section 90.305(b)) because that operation likely would not have an adverse impact on television stations and because television stations are required to protect land mobile operations within this eighty-mile area.¹² In addition, Laidlaw does not explain why it cannot use a channel in a band not subject to the fifty-mile limitation.¹³

6. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, the Request for Waiver filed on June 6, 2006 by Laidlaw Transit Inc. IS DENIED, and application FCC File No. 0002640796 SHALL BE DISMISSED in accordance with this *Order*.

⁸ 47 C.F.R. § 1.925(b)(3).

⁹ See Further Sharing of the UHF Television Band by Private Land Mobile Radio Services, *Notice of Proposed Rule Making*, Gen. Docket No. 85-172, 101 F.C.C. 2d 852 (1985).

¹⁰ 47 C.F.R. §§ 90.307, 90.309.

¹¹ See Waiver Request at 2.

¹² See Goosetown Enterps., Inc., *Memorandum Opinion and Order*, 16 FCC Rcd 12792, 12797 ¶ 13 (2001). Against this backdrop, we have performed our own engineering analysis, and determined that the service contour would extend approximately 19.8 miles from the proposed Laidlaw base station. (This is based on a 39 dBu service contour, see 47 C.F.R. §§ 90.187, 90.205, calculated based on the proposed effective radiated power (200 watts) and antenna height above mean sea level of 793 meters. See FCC File No. 0002640796.) Given that the base station is proposed to be located 69.7 miles from the geographic center for Los Angeles, the radius of the circular area within which the mobiles would operate would extend beyond 89.5 miles from the geographic center of the Los Angeles urbanized area. Therefore, the service area for the proposed Laidlaw base station would not remain within the eighty-mile area where land mobile operations are primary. Dismissal of the instant application is without prejudice to the filing of a new application and waiver request that does meet the *Goosetown* standard, if Laidlaw concludes that such a facility would meet its communications needs.

¹³ We note that Laidlaw is elsewhere licensed in the 900 MHz band. See license for Station WNJP421, El Toro, California.

7. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau